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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,725	07/17/2003	Ryo Igarashi	P06638US0	1578

7590

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EXAMINER

WHITE, RODNEY BARNETT

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 12/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/621,725

Applicant(s)

IGARASHI ET AL.

Examiner

Rodney B. White

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 11, as numbered by the Applicant, "said pair of supporting rods" lacks antecedent basis. Previously, on line 8, as numbered by the Applicant, Applicant has defined "a pair of support struts". Should the "supporting rods" on line 11 have been - - support struts - - instead?

In claim 3, line 3, claim 7, line 3, and claim 8, line 2, "the cable" lacks antecedent basis. Applicant does not claim or define "the cable" until claim 2. However, claim 3 depends from claim 1 where the "the cable" has not been defined. It appears claim 3 should depend from claim 2.

In claim 4, line 1, "the operating arm" lacks antecedent basis. Applicant defined an "operating lever" in claim 1.

The aforementioned problem renders the claims vague and indefinite. Applicant should read through his claims to look for other such discrepancies that may have been over-looked by the Examiner. It appears Applicant will define a structure using one name and then change the name in another claim. Applicant is reminded that he should use consistent terminology throughout the claims. Clarification and/or correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Ball et al (U.S. Patent No. 6,523,898 B1).

Ball et al teach a chair comprising : a seat ; a pair of armrests 64 at each side of the seat; a pair of arm posts for supporting the armrests; a backrest, a pair of support struts for supporting the backrest, a base under the seat; a shaft horizontally provided in the base and rotatably mounted to said pair of supporting struts; tilting means in the base for rotating the shaft to tilt the backrest at an optional stepwise angle; locking means; a support arm in one of the arm posts, and an operating lever 109 connected to the locking means via the support, wherein the operating lever is connected to the locking means via cable 110, wherein the operating lever is pivotally mounted to the support arm and moved upward so as to pull up the cable, the operating lever comprises a lever body having a recess in which a finger of a sitting person is engaged, and a pair of support portions having a short shaft which is engaged in a groove of the support arm, wherein a hollow arm pad support member in the arm post is provided to move up and down in the arm post to change height of the armrest, said cable being formed as a loop in the arm post, wherein the support member is provided in a armrest support rod in a hollow cylindrical height adjusting member which has a plurality of engagement portions therein, a pin projecting from the support member to engage on

one of said plurality of engagement portions of the height adjusting member to change height of the armrest, wherein a wire holder projects from a rear end of the operating lever and is engaged with an end of the cable, the end of the cable which extends via the wire holder being fixed to the armrest, wherein a recess is formed on an outer surface of the rear end of the wire holder so that the cable may be in sliding contact on the wire holder, wherein a lower end of the cable is taken out of an exit of a connecting rod of the arm post, the exit being covered with a bottom cover, wherein a recess is formed under the bottom cover so that the cable may be placed in the , wherein the bottom cover is fixed by engagement and by a screw to the connecting rod, wherein the tilting means comprises force promoting return means which comprises a force promoting unit comprising a core which rotates with the shaft, elastic material around the core and an outer tube around the elastic material (see Figures 1-68 and specification).

Claim 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Prior art does not teach the locking means comprising a sector gear mounted to the shaft to rotate together with the core, and an engagement member connected to the operating lever via the cable and engagable with teeth of the sector gear thereby holding the backrest at an optional stepwise angle and releasing it, as defined in claim 13.

Koepke et al, Ginat, Inoue, Knoblock et al, and Davis et al, Britain et al, and Her et al, teach chairs similar to the present invention.

### **Remarks**

It appeared Applicant had allowable subject matter until closer inspection of the claim language. In claim 2, it appeared Applicant was attempting to define that the operating lever, which is connected to the locking means via the support arm, is connected to the locking means that locks the inclination of the backrest at a desired angle is connected to a flexible cable. But reading back through claim 1, Applicant uses too much functional language which, in turn, does not render claims with certain structures or features being positively claimed. Applicant should get rid of all of the "for" language, since the "for" language, as well as the 112/2<sup>nd</sup> problems in the claims, are what allow the Ball et al reference to read 102(e) over the present invention. When Applicant uses "for" language, the reference used only has to have that structure regardless of whether or not it does the same thing as the structures in the present invention. For example, on line 14 of claim 1, Applicant only claims a "locking means" because the subject matter after the word "for" is not important. On line 18, applicant only claims "an operating lever" for the same reasons. Therefore, Ball et al has the structures of claim 1 although they may lock or operate different parts on the chair. Applicant should change "a pair of arm posts for supporting the armrests" to - a pair of arm posts supporting the armrests - -. A "pair of support struts for supporting the

backrest should be changed to -- a pair of support struts supporting the backrest --. The "locking means for locking inclination of the backrest at said angle" should be -- locking means locking inclination of the backrest at said angle --. And finally "an operating lever is connected to the locking means via the support arm to lock and release the inclination of the backrest" should be -- an operating lever is connected to the locking means via the support arm locking and releasing the inclination of the backrest --. Using such language, the structure and their features are positively claimed and there is direct interconnection between those parts and as a result, the subject matter of claim 2 is then allowable subject matter because Ball et al does not teach an operating lever connected to the locking means that locks inclination of the backrest via the support arm, which is in the arm post, via a flexible cable". Ball et al does teach that a cable can be used but does not specify that it is connected via an operating lever connected to the locking means via the support arm that is located in the arm posts.

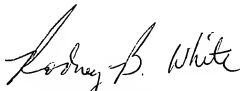
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (571) 272-6863. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rodney B. White,  
Patent examiner  
Art Unit 3636  
December 7, 2005



RODNEY B. WHITE  
PRIMARY EXAMINER